The Dutch Ambassador was summoned to the Ministry of External Affairs and a strong protest was registered at the handling of the unfortunate incident, especially the treatment meted out to the detainees.

The Dutch authorities expressed understanding for the concerns expressed by the Indian Government but drew attention to the apparently suspicious behaviour of the 12 Indian passengers, which appeared to require urgent preventive action. They conveyed that as soon as the investigations were completed within one-and-a-half days, the passengers were not only released from detention, but the Dutch authorities facilitated their earlier possible return to India.

The Indian Mission in The Hague worked closely with the Dutch authorities not only to obtain their early release but also to ensure their safe flight back to Mumbai.

Task force on Panchayats

†2479. SHRI RAVI SHANKAR PRASAD:
DR. MURLI MANOHAR JOSHI:

Will the Minister of PANCHAYATI RAJ be pleased to state:

(a)whether it is a fact that Government have constituted a task force under the chairpersonship of Hon'ble Smt. V.S. Rama Devi, Ex-Governor;

(b)if so, whether the said task force have submitted its report to Government;

(c)if so, the main recommendations of the said report;

(d)whether Government have identified those recommendations which are going to be accepted;

(e)if so, the details thereof; and

(f) by when the said recommendations are going to be implemented?

THE MINISTER OF PANCHAYATI RAJ (SHRI MANI SHANKAR AIYAR): (a) to (c) Yes, Sir. The Task force on Jurisprudence was set up by the Ministry of Panchayati Raj under the Chairpersonship of Hon'ble Smt. V.S. Rama Devi, Ex-Governor, and the Task force has submitted its report. A Summary of the recommendations is enclosed as Statement (See below).

†Original notice of the question was received in Hindi

(d) to (f) No, Sir. The report is under examination in the Ministry of Panchayati Raj.

Statement

Recommendations and suggestions of the task force

8.1 Elections

Panchayat elections are very contentious. Regularising them in a five yearly period will help avoid the judicial ill will.

* A uniform procedural pattern throughout the country, with similar officials having similar powers with regard to the conduct of the elections.

* The powers of the SEC are sacrosanct and the State Governments should not tinker with their powers, lest such tinkering violates the constitutional mandate.

* The Returning Officers should be aware of their powers and responsibilities. Since a large number of cases pertain to recounting, countennanding etc. the returning officers should know where to interfere and where to ask for help from the SEC.

* The election tribunals's powers should be as close to that of a 'court' under the CPC as possible. This will prevent litigation regarding the jurisdiction of the tribunal, which are quite unnecessary.

* Now it is well settled that Art. 243(0) cannot oust the writ jurisdiction of the HC. However, once the election process starts, the High Courts will be too cautious to interfere. This is evident from the stay given by the Division Bench of the A. P. High Court on the Single Bench decision, on the grounds that election process has already started.

* For deciding quorum, if the total elected members are being considered, then the State legislature should make it clear how the majority is to be calculated. This means that they should put down precisely in the statute/rules whether only the valid votes would be considered or otherwise.

* As far as reservations to Chief Functionary's post are concerned we tend to go with the Kerala High Court view, to the effect that the office of the President of a Gram Panchayat can be reserved for Women belonging to SC/ST, as it is perfectly within the constitutional mandate and not with the decision of the Calcutta High Court.

* Though the electoral rolls prepared by the Election Commission of India for general elections may be adopted, but updating the same for panchayat elections shall be the sole responsibility of the SEC. It constitutes the backbone of any democratic process and has to be carefully done. In many parts of rural India, where people are unaware of the need to get their names included in the voters-list, it is imperative that traditional methods like Tom-Tom'ing be employed. Also, they may take the assistance of social organizations to make the people aware of their duty to get themselves enrolled.

8.2 Suspension/removal

* Since both suspension and removal lead to temporary or permanent displacement of an elected functionary, it should have more stringent criteria and these criteria have to be strictly followed.

* On a trial basis, Panchayats may be given the power to do both these by a resolution. The majority required and other procedural stipulations for these resolutions may be different from that of a no-confidence motion, to the extent of avoiding confusion. If required, it could be provided in the statute that the collector or similar official may suspend/remove a functionary, but only after a resolution to the effect has been passed by the Panchayat. This would ensure that the process remains participatory without excessive intervention by executive authorities.

* The efforts made by some states like Orissa to completely take away a collector's power to suspend may be closely monitored and adopted if it succeeds.

8.3 No-confidence motion

* Specific provisions have to be given for removal and no-confidence
motion. Both should not be bundled up.

* The notice for the motion may ideally be given to the Chief Functionary or his deputy. If he does not call the meeting within a specified period, then the members must themselves be able to call the meeting. The quorum for such a meeting may be ^{61}/3rd of the total elected members' or a near about figure. There should be a provision where the Collector or any other official should be intimated about the meeting.

* In the alternative, the Assam model may be resorted to if the State Governments find it more conducive. The Assam model provides for a hierarchical panchayat supervision pattern. Whatever mode is employed, the executive's hold over panchayat resolutions and motions have to be reduced.

* A revision/appeal provision may be included. The only other remedy would be to file a writ petition.

* Sometimes it is necessary to make a procedural provision mandatory so as to ensure effective functioning of the system. In such cases, it is suggested that a consequence be prescribed for the violation of the provision. So long as this consequence is prescribed, the court would construe the provision to be mandatory. Else there is always a possibility of the court overlooking a non-compliance with procedure.

* A gap of 6 months should be the maximum statutorily stipulated period for the presentation of a fresh no-confidence motion, after the rejection of the first motion.

8.4 Disqualification

* Disqualification for non attendance of meetings-it has to be provided in the Panchayat statute that the 3 consecutive meetings should be sufficiently spaced out to entail disqualification for non-attendance. The spacing'may also be clearly indicated.

* For the two-child norm, states which have a provision to the effect should also clarify the position regarding the birth of twins etc. to avoid any conflicting decisions on the issue.

* The disqualification for violation of party whip is totally antithetical to the concept of Panchayati Raj. It was believed that the

panchayats wotild not suffer from party based politics. Though party politics has become institutionalized at the panchayat level. We strongly recommend that panchayat elections at all the three tiers should not be held on party basis. This would automatically take out the need for whip and defection provisions from the statutes. Non-party elections would be conducive to stability and development in the panchayat framework. Further, it would also avoid the rift between the state government and the panchayat administrations especially if different parties are in power.

8.5 Miscellaneous

8.5.1 Notification of villages/delimitation of constituencies

* These should be done, as far as possible, during the tenure of a panchayat, but way before elections are notified. This would help to avoid accusations of gerrymandering.
* These should be applicable only from the term of the next panchayat.
* Though the state government has the final word, it is advisable that the people of the panchayat be given the opportunity to give in their views on the issue. This will give the whole process greater transparency and popular support.
* The power to delimit should be vested in the SEC.

8.5.2 Power of panchayats

* Panchayats should be given greater autonomy and there should be minimum interference by executive authorities.
* The resolutions passed by the panchayats should be made non-reversible by executive authorities.
* An efficient social auditing mechanism will help to make the panchayats more accountable to the people. This will also make the state government a lot more relaxed while devolving funds and functions to the panchayats.
* Parallel bodies like Village/Rural Development Committees etc. should be abolished and every development work should be undertaken by and through panchayats.
* All the welfare projects should be executed through panchayats.